

Approved 11/17/05

**CHARTER REVIEW COMMISSION
PUBLIC FORUM**

Monday, October 24, 2005; 7:30 p.m.

7th Floor Hearing Room

Council Office Building

Minutes

Commission Members Present:

Kenneth Muir, Chair

Julie Davis

Mollie Habermeier

Michael McKeehan

Robert Reeder

Robert Skelton

Shelton Skolnick

Sally Sternbach

Commission Members Absent:

Barbara Smith Hawk, Vice Chair

Cheryl Kagan

Randy Scritchfield

Staff:

Sonya Healy, Legislative Analyst

Carol Edwards, Legislative Services
Coordinator

Marc Hansen, Chief, Division of General
Counsel, Office of the County Attorney

INTRODUCTORY COMMENTS

The Chair of the Charter Review Commission, Kenneth Muir, welcomed the speakers and guests to the public forum. The Chair spoke briefly about the background and purpose of the Charter Review Commission and mentioned that it is a bipartisan Commission appointed to serve a 4-year term.

The Charter is the County's constitution for County Government. The Charter Review Commission makes recommendations to the Council for possible Charter amendments; however, the Council may or may not approve putting the proposed amendments on the General Election ballot which would be voted on in November 2006. The Commission has had some preliminary discussions on possible amendments but has come to no conclusions.

General comments are welcomed, but the Commission asked for specific recommendations on the following issues: 1) Council structure – number of members; mix of districts and at-large seats; 2) if the Charter should specify that being a Councilmember is a full- or part-time job, and whether or not to prohibit outside employment; 3) whether the State Constitution should be amended to increase the number of signatures required to petition a County Charter amendment; 4) if the County's process for reviewing petition language should require a final determination on ballot language before signatures are collected, and 5) clarifying the timing of an Executive veto and deadlines for Council transmittal of legislation.

The Commission is required to issue a report to the Council in May of even years. The next report is due in May 2006.

SPEAKERS

1. Georgette Godwin – representing Montgomery County Chamber of Commerce

Ms. Godwin testified that the Chamber supports the current structure and size of the County Council, with four at-large members and five district members. The Chamber believes that the current size and structure of the County Council provides for both district and countywide representation of, and responsiveness to, the County's residents.

The Chamber believes that eliminating or reducing the relative number of at-large County Council positions would significantly reduce the level of representation each individual resident currently enjoys. The Chamber takes the position that reducing or eliminating the number of at-large Council positions would increase parochialism and political horse-trading during budget deliberations.

The Chamber supports maintaining the current approach, which is that the Council positions should remain part-time, reducing the likelihood that the Council will evolve into a managerial entity. The Chamber believes that having Council positions remain part-time would constrain the cost of government on taxpayers.

The Chamber supports increasing the number of signatures required to petition a County Charter amendment to reflect the County's population growth.

The Chamber supports maintaining the current process for drafting ballot language because 1) changing it would reduce the government's accountability to the public; and 2) the change does not identify a timeline or a process for resolving any disagreement between the petitioner and the County.

Commissioner Davis asked Ms. Godwin what ratio (at-large versus district) the Chamber would support in the proposal to increase the size of the Council. Ms. Godwin responded that the Chamber would be more inclined to comment when the Commission has a specific proposal.

2. Neal Potter – Former County Executive and County Councilmember

Mr. Potter testified that he prefers to keep the position of Councilmember as a part-time position, so individuals could continue outside employment. If a person runs for office and loses, he/she needs to have another form of employment to rely on.

Mr. Potter commented that the population of the County has increased significantly and it is beginning to cost far more for at-large candidates to run for office. He noted that having all-district representation on the Council would mean smaller groups for Councilmembers to reach and be less expensive to represent. If each of the 9 districts were half the size they are now, this would give voters more personalized representation.

Commissioner Sternbach asked Mr. Potter if he supports increasing the size of the Council. Mr. Potter responded that 9 Councilmembers are enough and the current system works. Increasing the size of the Council would create a need to enlarge staff and office space which would result in increased cost.

Commissioner Davis stated that the previous Charter Review Commission had recommended that the Council be recognized as a full-time job for compensation purposes. Councilmembers could continue to have outside employment but the Ethics Commission would oversee that issue. Commissioner Davis asked Mr. Potter if he supports recognizing the Council as full-time with no prohibition on outside employment. Mr. Potter commented that the Council should be paid on a full-time basis but doesn't want to limit individuals from running because they have outside jobs. He feels that the Commission's prior recommendation on this issue seems fair because people cannot afford to take the risk of the expenditures involved to run for the Council. The proposal may provide a means for the average person to run for office.

Chairman Muir asked Mr. Potter why he would support an all-district Council when the voters voted against this approach in the last election. Mr. Potter responded that voters need to be better educated about the proposal, so they can understand the benefits of more district representation.

3. Richard Zierdt – representing Randolph Civic Association

Mr. Zierdt testified on behalf of the Randolph Civic Association. In regard to the structure of the Council, the civic association believes that the County Council should be entirely locally-elected. The association does not agree that all-district representation leads to parochialism and finds no evidence that at-large elected county governments are any better in governing than those that are locally-elected.

In regard to the requirement to have 10,000 signatures to petition a Charter Amendment, Mr. Zierdt stated that signatures are difficult to collect. Raising the minimum will weaken the one tool citizens have to direct how they are governed. On the congruency of ballot language, Mr. Zierdt testified that it would be better to have ballot questions decided before they are circulated.

Commissioner Skolnick asked Mr. Zierdt to comment on the proposal to increase the size of the Council. Mr. Zierdt responded that the current number of Councilmembers (9) is enough.

4. Arnold Gordon – President, Norbeck Meadows Civic Association

The Norbeck Meadows Civic Association views the balance of power between the Council and the Executive as being generally satisfactory in theory. In practice however, the Association believes that because of the large constituency the Council represents, each of its members have become beholden to the Executive. The association is concerned about the influence of campaign funds from construction and developer interests that are given to Councilmembers. The Association supports eliminating at-large districts and creating 9 or more individual districts (or 8 districts and 3 at-large). Smaller districts decrease the influence of campaign funding over

election outcomes. Campaigning in smaller districts takes less money, is more personal, and permits more one-on-one contact and communication with candidates. Smaller districts permit closer relationships with Councilmembers and greater accountability.

Norbeck Meadows Civic Association supports Councilmanic positions as full-time status provided no outside employment is allowed.

The Association is opposed to increasing the numbers of signatures required to amend the County Charter. It is difficult to collect 10,000 and more than 10,000 would present an impossible obstacle and prevent people from expressing dissatisfaction with the status quo.

Commissioner Skolnick asked Mr. Gordon if his association plans to work on a petition to change the structure of the Council (8 district and 3 at-large) on the ballot. Mr. Gordon replied that at this point, the Association probably will not work on a petition.

5. Ron Resh – representing The Greater Bethesda-Chevy Chase Chamber of Commerce

Mr. Resh testified that the Bethesda-Chevy Chase Chamber of Commerce supports the present size and composition of the Council and believes that it works well. It minimizes parochialism and balances the desirability of local representation against the need for a broader countywide approach on issues before the Council. The Chamber is convinced that the success of many of the Chamber's key issues rest on the balance between district and at-large representation on the Council.

On the issue of a full-time versus part-time Council, the Chamber supports the current Charter provision which does not specify that membership on the Council should be a full-time position. The voters adopted this position, and the Chamber sees no valid reason to change it at this time. Mr. Resh's testimony states that "by not precluding members of the Council from pursuing outside employment interests and activities as time permits and as they see fit, we retain an important opportunity for them to share everyday experiences with residents and taxpayers of the County."

The Chamber sees no reason for the disparity between the petition signatures required for a charter amendment (20 percent or 10,000) and those needed for a referendum (5 percent or slightly more than 27,000). The Chamber believes that the 1915 Charter amendment provision is outdated and should be in line with the more recent referendum requirement.

In regard to the congruency of ballot language, the Chamber supports the current system and believes it should remain unchanged. The Chamber believes that ballot language should be clear and concise and should accurately reflect the full extent of the proposed amendment. However, the Chamber is concerned about any change that would compel the County Attorney and the County Council to commit time and resources to develop language prior to the collection of signatures.

6. Dale Tibbitts – representing Montgomery County Civic Federation

Mr. Tibbitts testified that the Civic Federation supports changing the County Council representation to 9 single-member districts and no at-large districts. The Civic Federation believes that the at-large races have become too expensive and have created more special interest contributors (developers and land use attorneys). In turn these special interest contributors appear to exert undue influence on County policies and actions. The Civic Federation believes that 9 smaller, community based districts will create the best, most representative form of local government for the residents of Montgomery County.

The Civic Federation does not advocate increasing the Charter amendment signature requirement. Mr. Tibbitts emphasized the difficulty and the immense amount of time involved to collect 10,000 signatures. The Civic Federation also advocates for congruency of ballot language and believes that the procedure needs to change.

The Civic Federation would like the Commission to review the Government Performance Project study by the Maxwell School of Citizenship and Public Affairs.

Commissioner Skelton asked Mr. Tibbitts if the Civic Federation has a position on the 8 district, 3 at-large proposal for the structure of the Council. Mr. Tibbitts responded that the Civic Federation's current position is to have 9 all districts and no at-large seats.

Commissioner Reeder asked if the Civic Federation had a position on the issue of full-time versus part-time. Mr. Tibbitts replied that the Civic Federation has no position on this issue.

Commissioner Skolnick asked Mr. Tibbitts if the Civic Federation plans to have another citizen petition drive for the next election on the structure of the Council. Mr. Tibbitts replied that the Civic Federation has not made a decision on another petition drive.

7. David Moon – Program Director for Fair Vote: The Center for Voting and Democracy

The Center for Voting and Democracy is a national non-partisan, non-profit organization based in Takoma Park that studies elections and advocates reform to promote increased participation and fair representation. The organization has been in existence for 13 years.

FairVote would like the debate about the structure of the County Council to move in a direction other than the single-member districts versus the at-large, winner-take-all system. Fair Vote believes that single member districts: 1) impose geography as the main factor in representation; 2) force governments to prioritize local representation over the benefits of having candidates seek countywide support; and 3) can grant political power unevenly.

Commissioner Habermeier asked Mr. Moon if FairVote has a position on the signature issue. Mr. Moon stated that FairVote has no position on the signature issue.

8. Peggy Denis

In regard to the issue of the number of signatures required to petition a County Charter amendment, Ms. Denis testified that it is difficult to collect signatures. However, people are willing to sign the petition once they understand what it is about. She commented that most of the voters do not know who their at-large Councilmembers are. She believes that at-large Councilmembers represent special interest groups rather than the people.

9. Marvin Weinman – representing Montgomery County Taxpayers’ League

The Taxpayers’ League believes that raising the number of signatures required to petition a County Charter amendment would virtually eliminate the opportunity for the public to collect approximately 26,000 signatures and deprives individuals of basic rights. The League believes that this would create a situation where only deep-pocketed special interest groups could afford to successfully petition for Charter amendments. The Taxpayers’ League asks the Commission not to recommend this issue for legislative consideration.

Mr. Weinman testified that the current size of the Council provides adequate representation. Electing four additional Councilmembers does not guarantee better public representation. He testified that increasing the size of the Council would mean an increase in staff for each Council position, and create a need for modification in the Council hearing rooms, thus creating a significant cost impact.

On the issue of ballot language, Mr. Weinman testified that many citizens did not clearly understand what they were voting for because of the way the question was written. He testified that implementing a final determination could delay the start of petition collection or possibly invalidate early petition signatures from consideration. The current system is not working well, but the solution offered does not solve the problem of continued ballot confusion based on the Council’s sometimes questionable wording of ballot questions. Mr. Weinman offered a two-step process for providing accurate issue presentation for ballot consideration: (1) the petition wording and (2) the ballot wording. First, there should be an early petition wording submission to the MFP Committee for review leading to a determination verifying that a legal petition has been generated. Next, the Council should approve a clearly presented representation of the petition’s intent for inclusion on the ballot. The Council should hold a session for approval of the ballot wording. At this worksession, a petitioner representative should be allowed to provide a brief comment on any ballot wording that they believe is not clear or not an accurate representation of the petition’s intent.

If a decision is made to designate the Council as full-time, the Taxpayers’ League would find it absolutely necessary to have an Ethics Commission review and have a hearing on their recommendations on any issues such as restrictions for outside earning and any other appropriate rules for ethics compliance they may identify. Council recommendation on ethics requirements to be imposed should be subject to review and comment at a public hearing before any Charter Amendment is finalized.

Commissioner Habermeier asked Mr. Weiman why shouldn't the number of signatures required to petition a charter amendment be increased from 10,000. Mr. Weiman replied that it would deny the rights of the average citizen to petition.

10. Wayne Goldstein

Mr. Goldstein mentioned the Government Performance Project which studied 75 of the largest counties and cities in the U.S. Only 4 percent or 3 jurisdictions let voters elect a majority of their representatives through both at-large and district representation. He suggested that the voters could elect an at-large Council President and/or Vice President to represent the entire County instead of rotating them; however, the County has had district Councilmembers serve well as Council Presidents. An at-large Council President could further reduce the influence of the County Executive.

On the issue of full-time versus part-time, Mr. Goldstein questions whether or not full-time pay, with a prohibition against outside employment, would cause politicians to do their job more effectively. While full-time work deserves full-time pay, he recommends that the voters should decide if they are getting their money's worth.

Mr. Goldstein believes that 9 or 13 all districts would provide better government. On the issue of ballot language, he would support a non-partisan body to decide the language.

11. Yale Wiesberg

Mr. Wiesberg supports changing the composition of the Council to 6 districts and 5 at-large members or 7 districts and 6 at-large members. Eleven or 13 Councilmembers would make the structure more compact and increase diversity on the Council. He does not support all districts. He thinks that the Charter Review Commission should recommend that the Council be full-time in the Charter with no prohibition on outside employment. He recommends placing a \$25,000 income limit on outside employment.

12. Charles Wolf

Mr. Wolf commented that when voters vote for the County Executive, they know who they are voting for. Councilmembers are never going to be known by the entire population. He believes that smaller districts would allow voters to know their Councilmembers, and therefore recommends smaller Council districts.

The forum ended at 9:15 p.m.